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UNCLAS SECTION 01 OF 04 MEXICO 002176

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SUBJECT: AGREEMENT TO IMPROVE LABOR ENVIRONMENT AT STATE  
LEVEL APPEARS TO ACHIEVE SOLID RESULTS

REF: 07 MEXICO 5936

¶1. SUMMARY: In October 2007 the local offices of several national labor confederations and the government of Jalisco state signed an agreement to reduce the number of threatened strikes and the resulting extortion of businesses that was damaging the state,s economic competitiveness (reftel). Although initially given little prospect for success, the agreement has exceeded all expectations and improved the state,s labor climate. Ultimately, the problem of fake or threatened strikes will require changes in Federal labor law, but the successes in Jalisco show that it is sometimes possible to find a local &work-around8 for a national problem. END SUMMARY.

STATE GOVERNMENT AND UNIONS TAKE ON NATIONAL PROBLEM  
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¶2. Last October, the government of Jalisco and the local offices of several national labor confederations signed an accord aimed at improving the state,s overall labor climate.

The accord, called &The Agreement for Labor Stability8, sought to reduce the number of threatened strikes, often called by bogus or unscrupulous unions for reasons totally unrelated to workplace issues or any form of contract negotiations. According to statements by both state government and union officials, Jalisco was facing a situation in which the threat of a strike, as opposed to an actual strike, was harming the business climate and discouraging investment. Spokesmen for the state,s private sector claimed that the threat of a strike was increasingly being used by labor unions to extort money from businesses that often willingly paid up rather than deal with potential labor conflicts or legal problems that might disrupt their operations.

¶3. The agreement was signed on the state government,s side by Jalisco,s governor Emilio Gonzalez Marquez and Secretary of Labor Ernesto Espinosa Guarro. The union signatories included the state Secretaries General of three of Mexico,s better known national labor confederations. The most prominent of these was the CTM (Confederation of Mexican Workers), Mexico,s largest national labor federation. Next in importance was the CROC (Revolutionary Confederation of Workers and Peasants), Mexico,s third largest national labor federation. (Comment: The CROC is a divided union in Jalisco and the faction that signed the agreement represents the smaller and weaker portion of the union). The third federation was the COR (Revolutionary Workers Confederation), one of Mexico,s smallest national level labor organizations.

¶4. In addition to the three first tier national federations the agreement was also signed by the Secretary General of the COS (Confederation of Union Organizations). The COS would best be described as a second tier labor organization but it has a national presence and, ultimately, it appears to be the federation that most fully committed itself to working with the Jalisco labor authorities to implement the agreement. The head of COS is also currently the leader of the Jalisco delegation of the Congress of Labor. (Note: The Congress of Labor is the national umbrella organization for unions and represents labor interests in dealings with the GOM.) Both the Jalisco government and the union officials pledged to take action to reduce the number of strikes or threatened strikes in the state but this phenomenon is very much a national problem that initially appeared extremely resistant to state level action.

#### THE ROOTS OF THE PROBLEM

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¶5. Mexico's constitution guarantees freedom of association and the right to strike. The statutes that codify these rights are contained in Mexico's Federal Labor Law.<sup>8</sup> In order to exercise the right to strike, Federal Labor Law establishes several administrative prerequisites, the two most important being: (1) that only officially recognized and properly registered unions can call for a strike and (2) before a strike can be considered legal a union must receive prior approval of a strike notice from the appropriate labor authorities. There are no provisions in Mexican law for

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state level authorities to suspend these two administrative requirements although state labor authorities can adapt their implementation in order to conform to local conditions.

¶6. In Jalisco, as in most other parts of Mexico, the unintended consequences of the two above-mentioned administrative prerequisites are a shockingly large number of filings for approvals of strike notices. In 2007 Jalisco's labor authorities received a total of 16,524 applications for approvals of strike notices. Of this number only a little over 4,000 were finally approved and, of those filings approved, less than 200 ultimately resulted in an actual strike.

¶7. Many of the more than 16,000 applications for approval of strike notices were attributed to unscrupulous or paper unions which exist because of abuses of the constitutional guarantee of freedom of association. Under Federal Labor Law a union can be formed with as few as 20 employees. Unfortunately, Mexican labor authorities (at both the federal and state levels) are often lax when it comes to verifying whether the employees of a particular workplace actually exist or, if the workers do exist, whether they are aware that someone filed for legal status as their union representative. Once a union has been officially recognized, whether or not there really are any workers in the union, the documents establishing the union can be used to file an application for approval of a strike notice.

¶8. More often than not the simple filing of a request, which in Jalisco was then certified with a government seal, was being presented to business owners as proof of an approved strike notice. Approved strike notices (or a document showing a filed request) were being presented to business owners who were then extorted for money to make the problem go away. The business owner could refuse to pay and risk what they believed to be a legally authorized strike but the cost of handing over the pay-off was usually less than the cost of challenging the legal status of one of these paper unions and/or the legality of a strike.

## THE DETAILS OF THE AGREEMENT

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¶9. In order to combat the growing problem of paper and unscrupulous labor unions using the threat of a strike to extort money from businesses the Jalisco agreement committed the state government and the unions to:

Work together to reduce the number of strikes statewide;

Verify the legal status of any union filing an application for approval of a strike notice. This would entail close scrutiny to ensure that recognized unions fully complied with the administrative requirements of keeping their registrations up to date;

Deny any application for approval of a strike notice that was not signed by the union,s Secretary General;

Verify the signature of the union Secretary General on any application for approval of a strike notice.

## DISAGREEMENT ON THE AGREEMENT

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¶10. According to press reports at the time, the unions which signed the agreement with the government of Jalisco represented some 60 percent of all unionized workers in the state. The other 40 percent of Jalisco,s unionized workers are represented by the FROC (Federation of Revolutionary Workers and Campesinos) and the CROM (Revolutionary Confederation of Mexican Workers). The FROC is the larger and stronger portion of the CROC in Jalisco and the CROM is affiliated with Mexico,s fourth largest labor federation.

¶11. The two labor organizations who pointedly refused to sign the agreement claimed they did so in order to protect worker rights. In their view, the agreement both attempts to supercede the administrative provisions of Federal Labor Law and to deny workers their constitutionally guaranteed right to strike. Moreover, spokespersons for these two unions

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opined, the recently signed agreement was no different from a similar accord reached several years ago by the previous state administration. That accord provided excellent photo opportunities but not much in the way of results, according to the dissident unions.

## THE RULES APPLY TO EVERYONE

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¶12. It may well be that the FROC and the CROM believed that by not signing the agreement its terms would not apply to them. If that was the case then they were wrong. During a recent meeting with Jalisco Secretary of Labor, Ernesto Espinosa Guarro, Mission Mexico Labor Counselor was told that in essence the agreement only required full compliance with mandates that already existed in Federal Labor Law. That being the case, Espinosa said, his agency immediately set out to apply the agreement provisions to everyone whether they signed the agreement or not.

## STATE LABOR OFFICE GET REAL RESULTS

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¶13. According to Labor Secretary Espinosa, before his agency could fully apply the terms of the agreement it first had to get its own house in order. This required a massive effort to review the Secretariat files to determine which unions had kept their registrations up to date and which had not. Very few were in full compliance with relevant federal requirements but a significant number only needed to do such

simple things as providing updated lists of union officers. In the process of updating its files Espinosa,s staff discovered a shockingly large number of irregularities among the Secretariat inspectors responsible for verifying the union information on file. Ultimately, the Secretariat was forced to dismiss for cause 22 of the 36 inspectors on staff. One of those fired was the head of the union for Labor Secretariat employees.

¶14. Once the Labor Secretariat reorganized its files and began applying the agreement to everyone the results were immediate and impressive. In 2007, prior to the agreement, the average number of requests for approvals of strike notices averaged 1,755 per month. After the agreement that number dropped to 621 requests for approval per month for the remainder of 2007. The average number of approval requests from January to June 2008 is 275 per month. The total number of requests for approval for that same period is 1,768 which is almost equal to the average number per month in 2007. Prior to the agreement the largest number of requests came from such first tier organization as the CTM, CROC and CROM. In January 2007 the CTM submitted 627 requests for approval; a year later that number dropped to just 14! The CROC and the CROM had similar reductions in their request numbers.

COMMENT

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¶15. Given that prior agreements of the type described above have produced less than stellar results this newest accord did not initially appear to offer much hope for any real change. However, &The Agreement for Labor Stability8 seems to be doing just what it was meant to do. A fair amount of the credit for this probably belongs to the new Jalisco Secretary of Labor but he told Mission Labor Counselor that the agreement might not have accomplished so much so fast were it not for such second tier unions as the COS. The COS, Secretary Espinosa said, listened to him when he told all the unions that the state had dropped eight places nationally in relative competitiveness. Working closely with his office the COS set out to rally support for Espinosa and for the agreement among other second tier organizations. This set an example that others soon followed.

¶16. As previously noted, the roots of the dilemma of threats being used to extort money from businesses stem from abuses of Federal Labor Law and ultimately it will require changes at the federal level to fully address the problem. Nevertheless, the unions and the state government in Jalisco are showing that it is possible at times to deal locally with a national problem. If this type of agreement can be

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effectively duplicated in other states it could make a real difference in labor, management, and government relations in Mexico.

¶17. This message was cleared with AmConsul Guadalajara.

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